



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
EDMONSTON F. **AND ARLENE** I. COIL)

Appearances:

For Appellants: Edmonston F. Coil, in pro. per.

For Respondent: Kathleen M. Morris
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of **Edmonston F.** and Arlene I. Coil against a proposed assessment of additional personal income tax in the amount of \$131.86 for the year 1976. Appellants have paid the proposed assessment and, therefore, pursuant to section **19061.1** of the Revenue and Taxation Code, the appeal will be treated as an appeal from the denial of a claim for refund.

Appeal of Edmonston F. and Arlene I. Coil

The sole issue presented is whether appellants are entitled to a deduction for moving expenses.

In 1975, appellants moved from Maryland to California. At the time of the move, appellant husband was on active duty with the armed forces and their household goods were transported to California at no cost to him. Appellants were however, charged \$1,202.89 in November 1976 for the cost of transporting goods in excess of the allowable weight limit. Appellants paid this amount in December 1976, but were not reimbursed for it. They deducted that amount on their 1976 California personal income tax return as a moving expense.

Respondent disallowed this deduction pursuant to Revenue and Taxation Code section 17266 since appellants moved to California from outside the state and were not reimbursed for the subject expense. A notice of proposed assessment was issued. Appellants protested and paid the assessment and interest, thereby converting their protest to a claim for refund. Respondent later affirmed its proposed assessment and this timely appeal followed.

Section 17266 of the Revenue and Taxation Code allows a deduction for certain designated moving expenses. The deduction is limited by subdivision (d) of that section, however, which provides in relevant part:

In the case of an individual whose former residence was outside this state and his new place of residence is located within this state ... the deduction allowed by this section shall be allowed only if any amount received as payment for or reimbursement of expenses of moving from one residence to another residence is includable in gross income as provided by Section 17122.5 and the amount of deduction shall be limited only to the amount of such payment or reimbursement or the amounts specified in subdivision (b), whichever amount is the lesser.

Since appellants did not receive any reimbursement for the subject moving expense, they are not entitled to a moving expense deduction under section 17266.

Appeal of Edmonston F. and Arlene I. Coil

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 19060 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claim of Edmonston F. and Arlene I. Coil for refund of personal income tax in the amount of \$131.86 for the year 1976, be and the same is hereby sustained.

Done at Sacramento, California, this 19th day of M a y , 1981, by the State Board of Equalization, with all **Board** members present.

Ernest J. Dronen Jr. _____, Chairman

George R. Reilly _____, Member

William M. Bennett _____, Member

Richard Nevins _____, Member

Kenneth Cory _____, Member